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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,470	10/09/2003	Takahiro Tokunaga	4041J-000788	9159

27572 7590 08/29/2006

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

FORD, JOHN K

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/682,470	TOKUNAGA ET AL.	
	Examiner	Art Unit	
	John K. Ford	3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/8/06
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 8-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 13-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/8/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's response of June 8, 2006 has been studied carefully. New limitations added to the claims have necessitated a new search. New prior art material to the amended claims has been found and rejections follow.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The new limitation in claim 1 that the cylindrical rotary door having a periphery defining only an inlet-side opening and an outlet-side opening and two partition walls does not appear to accurately describe the disclosed structure of Figure 2. In addition to the above, the periphery of the cylinder defines two fixing portions 38a. As well, un-illustrated structure on the periphery that connects the two partition walls to one another and to the rotating shaft (see specification page 11, line 27 – page 12, line 5), typically circular end walls, must exist. See JP 9-104218, Figure 2, element 20, for a three dimensional view of what one of these rotary doors actually looks like. The cross-sectional view that applicant has shown in non-elected Figure 4, for example, does not show all of the structures that the periphery of the cylindrical rotary door define.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 5, 6, 7 and 13-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP 9-104218.

The entire document including the machine translation thereof is incorporated here by reference by way of explanation. See Figures 1-10 and the description thereof incorporated here by reference.

Regarding claims 4 and 15, Figure 9 of JP 9-104218 shows a position where the hot air passage is entirely closed and the cool air passage is almost closed. While not shown if the rotary damper 20 were rotated approximately 30 degrees of arc in the clock-wise direction both the hot air passage and the cool air passage would be entirely closed.

The rotary door 20 can be positioned to perform the function claimed in claim 4 and 15. Whether or not the reference teaches this positioning is not relevant in an apparatus claim for the reasons explained in MPEP 2114, incorporated here by reference. These are apparatus claims not method of use claims.

Alternatively, should such an argument ultimately fail, it would have been obvious to have made the rotary damper 20 of JP 9-104218 capable of 360 degrees of rotation to advantageously allow it to be repositioned to any desired alternative position with no more than 180 degrees of rotation relative to its initial position.

Regarding claim 6 and 7, in the absence of a claim to the combination of the air conditioner and the vehicle, the intended use of any particular discharge opening to condition any intended area of the vehicle is not given patentable weight for reasons discussed in MPEP 2114, incorporated here by reference.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior as applied to claim 1 above, and further in view of Sumiya et al (USP 5,676,595) or Kamiya et al (USP 5,720,657).

Each of Sumiya (col. 5, line 56, col. 6, line 13) and Kamiya (col. 6, line 4 and col. 6, line 40) teach the subject matter of claims 2 and 3 at the enumerated points in their

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respective disclosures. It would have been obvious to one of ordinary skill in the art to have made the rotary damper 20 of JP 9-104218 of resin as taught by either of Sumiya (col. 5, line 56, col. 6, line 13) and Kamiya (col. 6, line 4 and col. 6, line 40), to reduce costs by advantageously using a relatively inexpensive material. It would have been obvious to one of ordinary skill in the art to have used a resin film on the rotary damper 20 of JP 9-104218 as taught by either of Sumiya (col. 5, line 56, col. 6, line 13) and Kamiya (col. 6, line 4 and col. 6, line 40), to advantageously improve the sealing capability of the device at the apertures.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior as applied to claim 1 above, and further in view of JP 5-69731.

JP 5-69731 discloses a rotary door rear seat air distributor in Figure 8. To have used the rotary door 20 and associated intakes 2b, 2c, 11, 12, 13 and 14 of JP 9-104218 in place of the corresponding structures shown in Figure 8 of JP 5-69731 would have been obvious to one of ordinary skill in the art to advantageously permit defrosting of the rear windows and permit more discharge modes thereby enhancing occupant comfort.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior as applied to claim 1 above, and further in view of Zheng et al (US 6,983,793).


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To have used the air conditioner 1 of JP 9-104218 in place of each of the front and rear air conditioners 28 and 30 of Zheng et al would have been obvious to one of ordinary skill in the art to advantageously eliminate the problems discussed in paragraph 0005 of JP 9-104218 (namely, complexity, by having only one moving part instead of multiple dampers).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to John K. Ford at telephone number 571-272-4911.



John K. Ford
Primary Examiner